DOCUMENT RESUME

ED 275 821 CE 045 361

TITLE	Handicapped Workers. Commission Fees Paid to Central Nonprofit Agencies. Briefing Report to the Chairman, Subcommittee on Employment and Housing, Committee on Government Operations, House of Representatives.
INSTITUTION	General Accounting Office, Washington, D.C.
REPORT NO	GAO/HRD-86-82BR
PUB DATE	Jun 86
NOTE	12p.
AVAILABLE FROM	U.S. General Accounting Office, P.O. Box 6015, Gaithersburg, MD 20877 (First five copies free; additional copies--$2.00 each; 100 or more--25% discount).
PUB TYPE	Reports - Research/Technical (143)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	*Blindness; Career Education; Federal Government; Federal Legislation; *Fees; *Nonprofit Organizations; Program Evaluation; *Public Agencies; *Severe Disabilities; *Sheltered Workshops; Technical Assistance
IDENTIFIERS	*Javits Wagner O Day Act 1971

ABSTRACT

Matters related to commission fees paid to the National Industries for the Blind (NIB) and to the National Industries for the Severely Handicapped (NISH) were reviewed. These fees were paid by sheltered workshops that employed blind or other severely handicapped individuals and produced goods and services under the Javits-Wagner-O'Day Act. The study focused on procedures established by the Committee for Purchase from the Blind and Other Severely Handicapped to review the commission fee, the reasonableness of a 4 percent fee, and NIB's and NISH's use of funds generated by the fee. Considerations in arriving at an adequate fee were projected sales of goods and services by sheltered workshops, NIB's and NISH's past expenditures and projections, NIB's and NISH's anticipated growth, and the need for NIB and NISH to maintain cash reserves. The method for reviewing the commission fee was found appropriate and the Committee's decision to retain the current ceiling of 4 percent on the fee was not found unreasonable. NIB and NISH provided technical assistance to sheltered workshops and expenditures were for developing new products and services, monitoring workshop compliance with Javits-Wagner-O'Day regulations, and determining production costs of workshop goods and services. (YLB)

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Briefing Report to the Chairman
Subcommittee on Employment and
Housing, Committee on Government
Operations, House of Representatives

ED275821

June 1986

HANDICAPPED WORKERS

Commission Fees Paid to Central Nonprofit Agencies

ED045361

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GAO/HRD-86-82BR

UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

HUMAN RESOURCES
DIVISION

June 6, 1986

B-223189

The Honorable Barney Frank
Chairman, Subcommittee on Employment and Housing
Committee on Government Operations
House of Representatives

Dear Mr. Chairman:

In response to your October 18, 1985, letter and later discussions with your office, we reviewed matters related to commission fees paid to the National Industries for the Blind (NIB) and to the National Industries for the Severely Handicapped (NISH).[1] These fees, which totaled $8.4 million in fiscal year 1985, were paid to NIB ($4.8 million) and NISH ($3.6 million) by sheltered workshops that (1) employed blind or other severely handicapped individuals and (2) produced goods and services under the Javits-Wagner-O'Day Act.

Under this act, sheltered workshops that meet certain requirements are permitted to sell goods and services to the federal government. Commission fees paid by workshops to NIB and NISH are based on the sales prices of goods and services sold by workshops to the government under the Javits-Wagner-O'Day program.

In general, you asked for information on procedures established by the Committee for Purchase from the Blind and Other Severely Handicapped (Committee) to review the commission fee, the reasonableness of a 4-percent fee, and NIB's and NISH's use of funds generated by the fee. In doing our work, we examined audited financial statements and other documentation on NIB and NISH financial operations and program activities. We also interviewed NIB and NISH officials, the Committee's executive director and its chairman, and members of a special subcommittee appointed by the chairman to assess the commission fee's adequacy. Our review was conducted in accordance with generally accepted government auditing standards. Our findings are summarized below and detailed in this briefing report.

--On June 13, 1985, a three-member subcommittee appointed by the Committee's chairman met and reviewed the adequacy of the commission fee. This was the first in-depth evaluation of the fee's appropriateness. After examining audited financial reports, budgets, and other documents on NIB's and NISH's

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[1]NIB and NISH are also referred to as the central nonprofit agencies.

activities, the subcommittee made its recommendations on the commission fee to the full Committee. By September 1985, the Committee had approved the subcommittee's recommendations that called for (1) retaining the current ceiling of 4 percent on the fee for fiscal year 1986 and (2) annually reviewing the fee's adequacy.

--In arriving at a fee adequate to support NIB's and NISH's fiscal year 1986 activities, the subcommittee considered: (1) projected sales of goods and services by sheltered workshops for fiscal years 1985 and 1986, (2) NIB's and NISH's past years' expenditures and projections for fiscal year 1985, (3) NIB's and NISH's anticipated growth, and (4) the need for NIB and NISH to maintain cash reserves. Based on our review of information on NIB's and NISH's activities that was available to the subcommittee and discussions with subcommittee members, the Committee's chairman and its executive director, and NIB and NISH officials, we believe that the subcommittee method for reviewing the commission fee was appropriate and the Committee's decision to retain the current ceiling of 4 percent on the fee for fiscal year 1986 was not unreasonable.

--In general, NIB and NISH provide technical assistance to sheltered workshops that produce or could produce goods and services under the Javits-Wagner-O'Day Act. Expenditures are for such program activities as developing new products and services, monitoring workshop compliance with Javits-Wagner-O'Day regulations, and determining the production costs of workshop goods and services. (App. I contains expenditure data by program activity for fiscal years 1983-85.)

The Committee, NIB, and NISH provided us with written comments on a draft of this report. Their comments, which were primarily technical, have been considered in preparing this report and are available to interested parties upon request. As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this briefing report until 30 days after its issue date. At that time, we will send copies to the Director, Office of Management and Budget, the Committee's chairman and its executive director, the Presidents of NIB and NISH, and other interested parties, and we will make copies available to others on request.

If you have additional questions or we can be of further assistance in this issue, please contact me on 275-5451.

Sincerely yours,

Franklin A. Curtis

Franklin A. Curtis
Associate Director

HANDICAPPED WORKERS:

COMMISSION FEES PAID TO CENTRAL

NONPROFIT AGENCIES

INTRODUCTION

The Javits-Wagner-O'Day Act (called the Wagner-O'Day Act until 1971) created a federal government program for procuring goods and services produced by sheltered workshops that employ blind or other severely handicapped workers. Under this act, a presidentially appointed Committee for Purchase from the Blind and Other Severely Handicapped was established. This Committee's functions included implementing the Javits-Wagner-O'Day program, determining which commodities and services are suitable for procurement from qualified workshops, issuing and maintaining a list of procured commodities and services, determining the fair market price of goods and services, and revising prices as market conditions change. In addition, the Committee also monitors the activities of the National Industries for the Blind (NIB) and the National Industries for the Severely Handicapped (NISH).

The Committee is composed of 15 members, including 1 from each of the following departments or agencies: the Departments of Agriculture, Defense, the Army, the Navy, the Air Force, Education, Commerce, Justice, and Labor; the Veterans Administration; and the General Services Administration. Four members are private citizens--one who is conversant with employment problems of the severely handicapped, one who is conversant with the problems incident to the employment of blind individuals, one who represents blind individuals employed in sheltered workshops for the blind, and one who represents other severely handicapped individuals in sheltered workshops.

Under the act, two organizations--NIB in 1938 and NISH in 1975--have been designated as central nonprofit agencies (CNAs) to help the Committee administer the Javits-Wagner-O'Day program. In addition to distributing government purchase orders to the sheltered workshops they represent, NIB and NISH monitor workshops and give them technical assistance. For example, NIB and NISH monitor and assist selected workshops each year to determine if at least 75 percent of the direct labor hours performed in the workshops are performed by blind or other severely handicapped workers, a prerequisite for participation in the Javits-Wagner-O'Day program. NIB and NISH also give workshops technical assistance in such areas as new product development, managerial training, and industrial engineering services.

Sheltered workshops participating in the Javits-Wagner-O'Day program pay commission fees to NIB and NISH based on sales

prices of goods and services sold to the government. The services provided by NIB or NISH to an individual workshop bear no relationship to the fees paid. The fees paid are not fees-for-services but are the primary means of financial support for the CNAs so that they can assist all qualified workshops that are interested in participating in the Javits-Wagner-O'Day program.

The commission rate is not fixed; rather, it is a cap or limit on the maximum that NIB or NISH may charge a sheltered workshop. For fiscal year 1986, the maximum fee that NIB or NISH may charge is 4 percent. Beginning in 1983, NIB has charged blind workshops a fee of 3.5 percent.

Sheltered workshops are established at state and local levels to address the employment and rehabilitation needs of the handicapped. In fiscal year 1985, 318 workshops employing over 15,000 workers produced Javits-Wagner-O'Day goods and services. Workshops manufacture such commodities as pens, pencils, military helmet components, and furniture and provide such services as janitorial, mailing, and grounds maintenance.

For fiscal year 1985, sales of goods and services amounted to $157.1 million (NIB) and $95.4 million (NISH), and commission fees paid to NIB totaled $4.8 million and to NISH totaled $3.6 million.

In 1981, we issued a report[1] on the role of sheltered workshops in employing the handicapped and operating in the competitive business community. In May 1983, the Subcommittee on Manpower and Housing (since renamed the Subcommittee on Employment and Housing), House Committee on Government Operations, held hearings on the administration of the Javits-Wagner-O'Day Act. As stated in House Report 98-546, dated November 1983, the Subcommittee was concerned that the appropriateness of the commission fee had not been evaluated. However, the Subcommittee found no evidence of serious problems with either the fee or the expenditures of funds generated by it.

WHAT PROCEDURES WERE ESTABLISHED TO EVALUATE THE ADEQUACY OF THE COMMISSION FEE?

In the spring of 1985, the Committee's chairman appointed a three-member subcommittee to evaluate the commission fee's adequacy and to recommend a fee for fiscal year 1986. This was the first in-depth evaluation of the fee's appropriateness.

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[1] Stronger Federal Efforts Needed for Providing Employment Opportunities and Enforcing Labor Standards in Sheltered Workshops (HRD-81-99, Sept. 28, 1981).

According to the Committee's executive director, events leading to an evaluation of the fee began in May 1982, when the Committee took action requiring NIB and NISH to submit their accomplishment reports, program plans, and audited financial statements to the Committee. In January 1984, after a review of CNA reporting requirements, the Committee approved revised reporting requirements that enabled it to relate CNAs' expenses to major programs that the CNAs were required to conduct. In 1984, the Committee addressed the issue of the adequacy of the commission fee; however, based on the information then at hand, determined that it could not at that time reach a decision on the fee's adequacy. As such, the ceiling on the fee remained at 4 percent.

After being appointed in the spring of 1985, the subcommittee met on June 13, 1985, to review the commission fee's adequacy. The subcommittee reviewed audited financial statements and other documents on NIB's and NISH's planned and past program and financial operations. After completing its review in July 1985, the subcommittee submitted its recommendations to the Committee. By September 1985, the Committee adopted the recommendations to retain the current ceiling of 4 percent on the fee for fiscal year 1986 and to annually review the fee's adequacy. The Committee's executive director told us the Committee plans to use the subcommittee method to evaluate and set fees in future years.

WHAT METHOD DID THE COMMITTEE USE TO ARRIVE AT A 4-PERCENT FEE AND WAS IT REASONABLE?

Based on our review of the information available to the subcommittee and discussions with subcommittee members, the Committee's chairman and its executive director, and NIB and NISH officials, we believe that the subcommittee method for reviewing the commission fee was appropriate and the Committee's decision to retain the current ceiling of 4 percent on the fee for fiscal year 1986 was not unreasonable.

On June 13, 1985, subcommittee members discussed the appropriateness of the commission fee for fiscal year 1986. They considered NIB's and NISH's (1) sales, revenues, and expenditures for fiscal years 1981-84, (2) estimated sales and revenues for fiscal years 1985-86, (3) program activities for fiscal years 1983-84, and (4) actual expenditures for fiscal year 1984 and projected expenditures for fiscal year 1985. According to two subcommittee members, discussion focused on whether the fee would allow NIB and NISH to maintain their growth and allow NISH to increase its cash reserves. The Committee's executive director told us that the subcommittee believed an adequate cash reserve to be at least 4, but preferably 6, months of operating capital. At the end of fiscal year 1985, NIB's cash reserve was over $3.7 million--about a 7-month reserve. NISH's reserve was $600,000--about a 2-month reserve.

Another NIB document considered by the subcommittee showed NIB's cash reserve as decreasing from 7.1 months in fiscal year 1985 to 3.8 months in fiscal year 1987 and 2.3 months in fiscal year 1989. NIB's proposed 5-year plan mentioned an expansion of its technical center, development of additional workshops, and other activities to expand employment by blind workshops. The subcommittee noted the size of the decrease in NIB's cash reserves would be influenced by the increase in sales by participating workshops and stated that the ceiling on the commission fee permits a CNA to charge less than the limit when its revenues and expenses do not justify the ceiling rate.

The subcommittee reported that a 4-percent fee would allow NISH to grow at an annual rate of 15 to 19 percent while increasing its cash reserves by $400,000 to $500,000 each year. With a real annual growth rate (less inflation) of 15 percent, NISH could double its program operations in 5 years, the subcommittee noted.

Subcommittee members rejected possible alternatives of reducing the ceiling on the commission fee to less than 4 percent. They believed a lower ceiling could result in unacceptable decreases in NIB's cash reserves or could limit the growth of NIB and NISH. According to the subcommittee report, reducing the 4-percent fee to 3-1/2 percent on government commodities would not provide an adequate margin of safety for NISH in view of the year-to-year fluctuations in government procurement. In addition, the lowered fee would prevent NISH from significantly increasing its cash reserves. In the case of NIB, the report also stated that if the fee were reduced and NIB's forecast of revenues and expenditures under the 5-year program were accurate, NIB might have to increase the fee in fiscal year 1987 to avoid an unacceptable decrease in cash reserves. This could result in the Committee having to restore the 4-percent ceiling in fiscal year 1987 and later years.

In addition to recommending that the ceiling on the commission fee be retained at 4 percent in fiscal year 1986, the subcommittee recommended that the fee's adequacy be examined annually. The subcommittee also recommended that NISH's statement of expenditures by program activity be verified as accurate by its certified public accounting firm. NISH implemented this recommendation in fiscal year 1985.

WHAT HAVE THE FEES BEEN USED FOR IN THE PAST FEW YEARS?

Beginning with fiscal year 1983, the Committee has required NIB and NISH to submit annual reports of expenditures by major functional or program categories, such as workshop qualification

and compliance, new products and services, and contract administration. Following are examples of items charged to each program category.[2]

Workshop qualification and compliance: Includes costs for such activities as verification that new and existing workshops employ handicapped workers for at least 75 percent of the direct labor hours performed in the workshop.

New products and services: Includes costs for such activities as search, or seeking out and establishing procurement contacts with federal agencies in need of a product or a service.

Pricing and costing: Includes costs for such activities as determining initial price of a newly procured product, determining changes in production cost, and repricing goods and services in light of increased production costs.

Contract administration: Includes costs for such activities as allocating large product orders between workshops and testing raw materials and finished products. For example, NIB has a testing facility in St. Louis where this service is available for all blind workshops.

Training and orientation: Examples of costs for this category include any training given to workshop members in such areas as pricing and production planning. NIB conducts a number of courses and programs serving this function.

Military resale: Includes costs for paying broker fees, merchandising and advertising products in commissaries and post exchanges, and shelf stocking.

General administration: Described as a general overhead category, costs here include salaries of NIB and NISH Presidents when they are not engaged in a specific program activity; and staff assigned to such activities as payroll, timecards, and housekeeping functions.

The 1983 House Committee on Government Operations report discussed the Committee's need to require more financial reporting by NIB and NISH. According to the executive director, since 1983 the CNAs have submitted more informative financial reports and other documentation. For instance, NIB and NISH now annually submit to the Committee program budgets; statements of sales, revenues, and expenditures; narrative explanations of planned and actual activities by program categories; and the results of audits by their certified public accounting firms. According to the executive director, this information has helped

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[2]See appendix I for expenditures by program category.

the Committee administer the Javits-Wagner-O'Day program and assess the reasonableness of the commission fee. Moreover, the reporting requirements continue to be refined. For example, beginning in fiscal year 1987, the Committee will require NIB and NISH to submit a 5-year forecast of sales, revenues, and expenditures.

In addition to submitting written materials to the Committee, NIB and NISH officials present briefings at Committee meetings on their organizations' plans and budgets as well as on their expenditures for the fiscal year. They also elaborate on their organizations' goals, objectives, and accomplishments. In addition to oversight by the Committee, NIB's and NISH's boards of directors approve their budgets and periodically monitor their expenditures. Representatives from the sheltered workshops serve on these boards.

Another concern expressed in the Committee report was the involvement of either NIB or NISH in labor-management litigation. In House Report 98-546, the Subcommittee regarded NIB's use of funds generated by the commission fee to litigate a case involving the right of blind workshop employees to unionize as impermissible. The Subcommittee strongly recommended that funds not be used for this purpose. NIB complied with the recommendation and has included in its annual report a statement, verified as accurate by its certified public accounting firm, that it has not used funds for litigating labor-management disputes. NISH's President also advised us that NISH has never used nor plans to use funds for this purpose.

COMMENTS BY INTERESTED PARTIES AND OUR EVALUATION

The Committee, NIB, and NISH provided us with written comments on a draft of this report. The Committee stated that the report generally provided an excellent presentation of the Committee's actions concerning its evaluation of the commission fee. NIB stated that it was in total agreement with both the contents as well as the thrust of the report. The Committee's, NIB's, and NISH's comments, which were primarily technical, have been considered in preparing this report. Their comments are available to interested parties upon request.

PROGRAM EXPENDITURES FOR NIB AND NISH

(Fiscal years 1983-85)

Program categories	NIB expenditures 1983	1984	1985
Compliance	$ 430,495	$ 384,397	$ 280,469
New products	625,920	808,203	1,238,494
Pricing/costing	326,428	265,021	383,291
Contract administration	862,089	978,765	1,185,431
Training/orientation	437,094	521,097	676,032
General administration	528,830	606,405	719,693
Military resale	1,496,740	1,588,284	1,746,638
Total	$4,707,596	$5,152,172	$6,230,048

Program categories	NISH expenditures 1983	1984	1985
Compliance	$ 14,673	$ 54,689	$ 175,109
New products	734,285	1,057,875	1,345,032
Pricing/costing	1,006,747	1,225,208	1,417,849
Contract administration	167,302	193,852	197,650
Training/orientation	49,321	88,759	230,512
General administration	203,010	298,387	349,190
Military resale	2,242	5,064	8,346
Total	$2,177,580	$2,923,834	$3,723,688

Sources: NIB's and NISH's financial reports for fiscal years 1983-85.

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